



# **Complaints Procedure**

**Reviewed March 2016**

## **1. INTRODUCTION**

### **1.1. Definition of a Complaint**

A complaint is an expression of dissatisfaction by one or more members of the public about the Council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the Council itself or a person or body acting on behalf of the Council.

- 1.2. From time to time members of the public have complaints about the administration or procedures of the Town Council. Local Councils as corporate bodies are not subject to the jurisdiction of the Local Government Ombudsman, and there are no provisions for another body to which complaints can be referred. Therefore, it is recommended for transparency in local government, and for the benefit of good local administration, that the Town Council should adopt a standard formal procedure for considering complaints. The Council will do its utmost to settle complaints and satisfy complainants in the interest of the good reputation of the Council.
- 1.3. The Council will bear in mind the provisions of the Data Protection Act 1998 as well as the Freedom of Information Act 2000 in dealing with complaints.
- 1.4. In the event of a seemingly serial facetious, vexatious or malicious complaint, the Council may consider taking legal advice.

## **2. COMPLAINANTS**

- 2.1. Complainants can be members of the public, Councillors, or employees of the Council.

## **3. CONFIDENTIALITY**

- 3.1. The identity of a complainant will only be made known to those who need to consider a complaint. Care will be taken to maintain confidentiality where circumstances demand, e.g. where matters concern financial or sensitive information or where third parties are concerned.

## **4. COMPLAINTS OUTSIDE THIS PROCEDURE**

- 4.1. The following are excluded from this Procedure:
  - (i) Financial irregularity complaints should be referred to the Council's auditor, whose name and address can be obtained from the Town Clerk. (Local electors' statutory rights to object to the Council's audit of accounts pursuant to the Audit Commission Act 1998).
  - (ii) Criminal activity should be referred to the Police.
  - (iii) Members' conduct: a complaint relating to a Member's failure to comply with the Code of Conduct must be submitted to the Standard's Committee of Cornwall Council.
  - (iv) Employee's conduct: a complaint should be referred to the Town Clerk to be dealt with under internal disciplinary procedures. However, if the complaint is about the Town Clerk, the complaint should be referred to the Mayor.

## **5. COMPLAINTS COMMITTEE**

- 5.1. A Complaints Sub-Committee will be appointed by the Policy, Finance & Resources Committee as required.

## **6. COMPLAINTS**

- 6.1. All complaints will be deemed to be informal complaints unless a written complaint states that it is a formal complaint.

## **7. INFORMAL COMPLAINTS PROCEDURE**

- 7.1. An informal complaint may be given orally or in writing to the Town Clerk.
- 7.2. If a complaint is given to a Councillor it is their duty to notify the Town Clerk or Mayor.
- 7.3. The Town Clerk or Mayor will speak directly to the complainant and will attempt to settle the complaint and to ensure that the complainant feels satisfied that their grievance has been fully considered, taken seriously and acted upon accordingly.
- 7.4. If the complaint cannot be resolved, the Town Clerk will be informed and he/she will instigate the Formal Complaints Procedure.

## **8. FORMAL COMPLAINTS PROCEDURE**

- 8.1. All formal complaints will be heard in public unless the Complaints Sub-Committee expressly resolves to exclude the press and public due to the confidential nature of the complaint.
- 8.2. To resolve the formal complaint, the Complaints Sub-Committee will hold a formal hearing to review the complaint and make a recommendation on behalf of the Council.
- 8.3. The complainant will be invited to attend the formal hearing if they so wish.

### **Before the Meeting**

- 8.4. A Formal Complaint must be lodged in writing and sent to the Town Clerk. The letter must state that a Formal Complaint is being lodged and should have the following information-
  - (i) Name, address, and telephone number of the complainant.
  - (ii) The complaint about the Council's procedures or administration.
  - (iii) How the issue has affected the complainant.
  - (iv) Copies of any relevant documents or other evidence to which the complainant may wish to refer at the meeting.

(v) Details of third parties and their involvement.

(vi) What action the complainant believes will resolve the complaint.

- 8.5. If the complainant does not wish to put the complaint to the Town Clerk, they should be advised to address the complaint to the Mayor.
- 8.6. The Town Clerk will acknowledge the complaint and inform the complainant that a date for a Complaints Hearing will be scheduled within 28 days.
- 8.7. The Town Clerk will issue an agenda for the Complaints Formal Hearing not less than three clear days before the formal hearing of the Complaints Sub-Committee.
- 8.8. The Town Clerk will invite the complainant to bring one representative who may speak on their behalf if they so wish.
- 8.9. Any documentation not already supplied must be sent to the Town Clerk seven clear days before the meeting.
- 8.10. If either party provides details, documentation or evidence less than seven days before the meeting, the Chairman of the Complaints Sub-Committee will decide whether to admit it.

### **At the Meeting**

- 8.11. The Complaints Sub-Committee will decide whether the circumstances of the meeting warrant the exclusion of the public and the press.
- 8.12. The Chairman of the Sub-Committee will introduce everyone and explain the procedure.
- 8.13. The complainant and their representative will detail the complaint to the Sub-Committee.
- 8.14. Members of the Sub-Committee can ask questions of the complainant relating to the complaint.
- 8.15. The Town Clerk or Councillor will present the Council's position relating to the complaint.
- 8.16. Members of the Sub-Committee can ask questions of the Town Clerk or Councillor.
- 8.17. The Town Clerk or Councillor and the complainant will be offered the opportunity to make any final comments (in that order).
- 8.18. The Sub-Committee will then consider the complaint in private.
- 8.19. The Sub-Committee can re-open the meeting if clarification of points is needed from either party, but both parties must be invited back to the meeting.

8.20. The Chairman may adjourn the meeting in order that specialist advice may be sought.

8.21. The Chairman will ask all parties to re-join the meeting to inform them of the Sub-Committee's recommendation to Full Council. If a recommendation cannot be reached at the meeting, the Chairman will advise when the recommendation will be made and communicated to the complainant.

### **After the Meeting**

8.22. Any recommendation on a complaint will be ratified and announced at the next meeting of the Full Council in public.

8.23. Within seven days of the Council accepting the recommendation of the Complaints Sub-Committee, the Town Clerk will put the decision in writing to the complainant to include details of any action to be taken.

## **9. MONITORING AND REVIEW**

9.1. This procedure shall be reviewed on an annual basis, or at such time as deemed appropriate.